IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25/04/2003

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THE HONOURABLE MR. JUSTICE P.K. MISRA

WRIT PETITION No.32190 OF 2002
AND
WPMP.NO.46834 OF 2002
AND
WVMP.NO.1706 OF 2002

The Atomic Energy Employees
Association, Regn.No.67/79,
Indira Gandhi Centre for Atomic Research,
Kalpakkam, rep. by its General Secretary
T. Mohan,
S/o.P. Thiruvedhi .. Petitioner

-Vs-

1. The Block Development Officer,
Thirukalukundram Panchayat Union,
Kancheepuram District.

2. The Chief Administrative Officer,
Indira Gandhi Centre for Atomic Research.

3. The Administrative Officer,
Baba Atomic Research Centre
Facilities.

4. Senior Manager,
Personnel and Industrial Relations,
Masdras Atomic Power Station.

5. The Chief Kalpakkam Administrative
Officer, General,
Services Organisation,
Kalpakkam. .. Respondents

Petition filed under Article 226 of the Constitution of India for
issuance of a Writ of Prohibition as stated therein.

For Petitioner : Mr.R. Sankarasubbu

For Respondents : Mr.V. Subbarayan

Special Govt. Pleader

:J U D G M E N T

The present writ petition has been filed on behalf of the Atomic Energy Employees Association seeking for a Writ of Prohibition prohibiting the first respondent from collecting profession taxes from the employees of Indira Gandhi Centre for Atomic Research, Madras Atomic Power Station, Baba Atomic Research Centre, etc.

2. It has been indicated that Circular in IGCAR/Admn.(O&M)/2002 dated 10.5.2002 is without jurisdiction. It is stated that various Organisations indicated are situated in Kalpakkam and Anupuram Township. These Organisations have been created under Atomic Energy Act, 1962 and the entire area is under the direct supervision of the Atomic Energy Department, Government of India. It is further indicated that all civic amenities are provided by the Estate Management and the Panchayats have no control whatsoever in the matter of administration of the Township. It has been further stated that the Panchayat Act itself has exempted Army persons from the purview of the Act and the atomic energy is being used for the defence purpose, they are to be considered as exempted under the Panchayats Act and Atomic Energy Act alone is applicable and collection of profession tax is inapplicable compared to the provisions contained in the Atomic Energy Act. In view of the above, it has been contended that the first respondent has no jurisdiction to collect profession tax and the circular issued by other respondents clarifying that the profession tax can be collected is illegal and inoperative.

3. Since an order of interim stay had been granted, the petition for vacating the stay has been filed on behalf of the first respondent. In the said petition, while refuting the contentions raised by the petitioner, imposition of profession tax has been justified. It has been indicated that no exemption has been granted under the Tamil Nadu village Panchayat (Collection of tax on Professsion, Trade, Calling and Employment) Rules,2000 to the employees working under the Atomic Energy Department nor to the members of the petitioner Association nor to the members of any of the Associations indicated by the petitioner. As per the definition contained in the aforesaid Rules, an employee has been defined to be a person employed on salary and includes a Government servant receiving pay from the revenue of the Central Government. It has been further indicated that the question of providing or not providing civic amenities within a particular area has got no concern with the matter relating to imposition of profession tax. It has been further indicated that the second respondent has rightly issued a circular clarifying that profession tax is leviable.

4. The profession tax is imposed on a person employed in a particular manner. As per the definition, a Government servant receiving pay from the revenue of the Central Government is also included. There is no exemption under the Rules exempting any Central Government employee or any employee under the Atomic Energy Commission from the purview of the Rules. Nothing has been brought to my notice either with reference to the Panchayats Act or with

reference to the Rules imposing profession tax exempting Atomic Energy Commission or the employees working under the Commission or any particular area from the purview of the Rules regarding imposition of profession tax. It is not disputed that the validity of Tamil Nadu Tax on Professions, Trades, Callings and Employments Act, 1992 has been upheld subject to certain exceptions.

5. For the aforesaid reasons, I do not find any merit in the writ petition, which is accordingly dismissed. No costs. Interim order granted in WPMP.No.46834 of 2002 shall stand vacated.

Index-Yes.
Internet-Yes.

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To
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